

Applicant intends this response to be a complete response to the Examiner's **19 March 2003** Non-Final Office Action. Applicant has labeled the paragraphs in his response to correspond to the paragraph labeling in the Office Action for the convenience of the Examiner.

***Election/Restriction***

1-5. Applicant expressly adopted the election requirement made telephonically. The inventorship is the same on all claims.

*Rejections Under 35 U.S.C. §112, ¶2*

6. **Claim 4** stand rejected under 35 U.S.C. § 112, ¶2 as being indefinite. Applicants traverse and respectfully request reconsideration based on the above claim amendments, if any, and the remarks presented herein.

The misspelled word has been corrected, and, Applicants, therefore, respectfully request withdrawal of this section 112, ¶2 rejection.

### *Rejections Under 35 U.S.C. §102*

8. **Claims 1-10 and 19-20** stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yamaguchi et al and under 35 U.S.C. § 102(a) as being anticipated by Gnanasambandam et al. Applicants traverse and respectfully request reconsideration based on the above claim amendments, if any, and the remarks presented herein.

The Examiner contends as follows:

Either one of Yamaguchi et al or Gnanasambandam et al disclose a pectinaceous material prepared from soybean hulls, and absent a showing otherwise, it is considered inherent that same would exhibit the characteristics called for in the instant claims. It should be further noted that Gnanasambandam et al further discloses food products employing said pectin. As for Yamaguchi et al, it is considered inherent that same would be employed in food products.

Applicants hereby submit evidence to antedate the Gnanasambandam article which is based on the work of the inventors. Applicants filled an original provisional application covering a major portion of this application bearing serial number 60/134652 filed May 18, 1999 based on a university invention disclosure statement received on 23 November 1998.

Applicants, therefore, respectfully request the removal of the Gnanasambandam article as a reference against the present application and withdrawal of this section 102(e) rejection.

As to Yamaguchi et al., the present invention is distinguished from the Yamaguchi et al. product for at least the following reasons: (1) the Yamaguchi et al. pectin is from whole soy bean curd (referred to as *Okara* in the paper) and not from hulls and/or hypocotyl; (2) the Yamaguchi et al. pectin was extracted using a phosphate buffer; (3) the Yamaguchi et al. pectin crude sample had a substantially different compositional breakdown compared to the present pectin; (4) although Yamaguchi et al. do not disclose the color value of their crude product, the crude product likely does not have an L value of 85 and more. Yamaguchi did not specify the steps used to clean up the whole soybeans prior to formation of the whole soy bean curd. Unless the soil from the soybeans was removed prior to extracting the pectin, the resulting pectin will certainly be poor in color, having an L value less than 85. In the case of the whole bean curd, the resulting pectin will likely have an L value less than 85 because of all the lipids, soybean oils and other impurities left in the whole soybean curd. The inventors tried many different extraction procedures until they were able to produce a soy pectin material that had an L value of 85 or greater. Many of these failed attempts used extraction conditions that more resemble the Yamaguchi et al. process than the present process as evidenced by the substantial difference the nature of the crude pectin produced.

The substantial difference between the pectin extracted from whole soy bean curd and that extracted from hulls and hypocotyl clearly differentiates the present product from the Yamaguchi et al. product as currently claimed. Moreover, the present product has an L value of 85 or more, a value likely not achieved in the crude whole bean extract of Yamaguchi et al. Because Yamaguchi et al. is directed to a wholly different petinaceous material as evidenced by the compositional breakdown in Tables 1 and 2 compared to claim 4 of this invention and from a wholly different source (hulls and hypocotyl instead of curd), the present invention is not anticipated by Yamaguchi et al. and Applicants, respectfully request withdrawal of this section 102(b) rejection.

Moreover, the present invention is not rendered obvious in view of Yamaguchi et al. because Yamaguchi et al. do not disclose, teach or suggest extracting pectin from hulls and hypocotyls that has such a different compositional make up to the Yamaguchi et al. product.

**One claim in excess of the 20 allowed claims has been added. The Director of Patents is authorized to charge Deposit Account 501518 for the \$9.00 additional claims fee or any other underpayment or the credit the Deposit Account for any overpayment.**

Having fully responded to the Examiner's Non-Final Office Action, Applicant respectfully urges that is application be passed onto allowance.

If it would be of assistance in resolving any issues in this application, the Examiner is kindly invited to contact applicant's attorney Robert W. Strozier at 713.977.7000

Date: **June 2, 2003**

Respectfully submitted,



Robert W. Strozier

Reg. No. 34,024